

CLOSED

**U.S. District Court
Middle District of Florida (Orlando)
CIVIL DOCKET FOR CASE #: 6:11-cv-01416-GAP-DAB**

Brancheau et al v. Secretary of Labor, et al
Assigned to: Judge Gregory A. Presnell
Referred to: Magistrate Judge David A. Baker
Case in other court: USCA, 12-12003-DD
Cause: 28:2201 Declaratory Judgment

Date Filed: 08/24/2011
Date Terminated: 04/26/2013
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

Scott Brancheau

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Plaintiff

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Plaintiff

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V.

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TERMINATED: 10/25/2011
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V.

Defendant

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Defendant

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Defendant

**Occupational Safety and Health
Administration**

represented by **Ralph E. Hopkins**
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Defendant

United States Department of Labor

represented by **Ralph E. Hopkins**
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Date Filed	#	Docket Text
08/24/2011	<u>1</u>	COMPLAINT filed by Scott Brancheau, Charles Loverde, Deborah Frogameni, and Marion Loverde against Assistant Secretary of Labor, Occupational Safety and Health Administration, Secretary of Labor, and United States Department of Labor (Filing fee \$ 350 receipt number ORL10117).(SR) Modified on 8/26/2011 (SR). (Entered: 08/24/2011)

08/24/2011	<u>2</u>	Summons Issued as to U.S. Attorney. (SR) (Entered: 08/24/2011)
08/24/2011	<u>3</u>	MOTION for preliminary injunction by All Plaintiffs. (Attachments: # <u>1</u> Proposed Order)(SR) (Entered: 08/24/2011)
08/24/2011	<u>4</u>	DECLARATION of George R. Coe in support of <u>3</u> MOTION for preliminary injunction by Scott Brancheau, Deborah Frogameni, Charles Loverde, and Marion Loverde. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8, # <u>9</u> Exhibit 9, # <u>10</u> Exhibit 10, # <u>11</u> Exhibit 11, # <u>12</u> Exhibit 12, # <u>13</u> Exhibit 13, # <u>14</u> Exhibit 14)(SR) (Entered: 08/24/2011)
08/28/2011	<u>5</u>	RELATED CASE ORDER AND NOTICE of designation under Local Rule 3.05 – track 2. Notice of pendency of other actions due within 14 days. Signed by Judge Gregory A. Presnell on 8/28/2011. Copies mailed.(LAM) (Entered: 08/28/2011)
08/28/2011	<u>6</u>	INTERESTED PERSONS ORDER. Certificate of interested persons and corporate disclosure statement due within 14 days. Signed by Judge Gregory A. Presnell on 8/28/2011. Copies mailed.(LAM) (Entered: 08/28/2011)
08/28/2011	<u>7</u>	ORDER/NOTICE for Attorney Jon L. Mills to comply with the administrative procedures regarding electronic filing. Signed by Judge Gregory A. Presnell on 8/28/2011. Copies mailed.(LAM) (Entered: 08/28/2011)
08/29/2011	<u>8</u>	PROOF of service on 8/24/11 on all defendants through US Attorney's Office, Orlando, FL, by Scott Brancheau, Deborah Frogameni, Charles Loverde, Marion Loverde (Coe, George) *Modified text on 8/30/2011 (MAA). (Entered: 08/29/2011)
08/29/2011	<u>9</u>	PROOF of service by Scott Brancheau, Deborah Frogameni, Charles Loverde, Marion Loverde (Coe, George) (Entered: 08/29/2011)
08/30/2011	<u>10</u>	ORDER requiring Defendants to respond to <u>3</u> Motion for Preliminary Injunction by September 12, 2011 and requiring Plaintiffs to show cause. Signed by Judge Gregory A. Presnell on 8/30/2011. (ED) (Entered: 08/30/2011)
09/09/2011	<u>11</u>	RESPONSE in opposition re <u>3</u> MOTION for preliminary injunction filed by Assistant Secretary of Labor, Occupational Safety and Health Administration, Secretary of Labor, United States Department of Labor. (Hopkins, Ralph) (Entered: 09/09/2011)
09/09/2011	<u>12</u>	NOTICE of pendency of related cases re <u>5</u> Related case order and notice of designation of track 2 per Local Rule 1.04(d) by Scott Brancheau, Deborah Frogameni, Charles Loverde, Marion Loverde. Related case(s): yes (Coe, George) (Entered: 09/09/2011)
09/09/2011	<u>13</u>	CERTIFICATE of interested persons and corporate disclosure statement re <u>6</u> Interested persons order by Scott Brancheau, Deborah Frogameni, Charles Loverde, Marion Loverde. (Coe, George) (Entered: 09/09/2011)
09/11/2011	<u>14</u>	INTERESTED PERSONS ORDER to Defendants. Certificate of interested persons and corporate disclosure statement due by 9/26/2011. Signed by Judge Gregory A. Presnell on 9/11/2011. Copies mailed.(LAM) (Entered: 09/11/2011)
09/12/2011	<u>15</u>	CERTIFICATE of interested persons and corporate disclosure statement re <u>14</u> Interested persons order by Occupational Safety and Health Administration, Secretary of Labor, United States Department of Labor. (Hopkins, Ralph) (Entered: 09/12/2011)
09/12/2011	<u>16</u>	RESPONSE re <u>10</u> Order to Show Cause by Scott Brancheau, Deborah Frogameni, Charles Loverde, Marion Loverde. (Coe, George) (Entered: 09/12/2011)
09/15/2011	<u>17</u>	NOTICE by Assistant Secretary of Labor, Occupational Safety and Health Administration, Secretary of Labor, United States Department of Labor (<i>Defendants' Notice of Filing</i>) (Hopkins, Ralph) (Entered: 09/15/2011)
09/15/2011	<u>18</u>	ORDER denying <u>3</u> Motion for preliminary injunction. Signed by Judge Gregory A. Presnell on 9/15/2011. (ED) (Entered: 09/15/2011)

09/19/2011	<u>19</u>	MOTION to intervene by SeaWorld Parks &Entertainment, LLC. (Attachments: # <u>1</u> Exhibit INTERVENOR COMPLAINT)(Herbert, Gregory) (Entered: 09/19/2011)
09/22/2011	<u>20</u>	MOTION to dismiss Complaint <i>for declaratory and permanent injunctive relief</i> by Assistant Secretary of Labor, Occupational Safety and Health Administration, Secretary of Labor, United States Department of Labor. (Hopkins, Ralph) (Entered: 09/22/2011)
09/29/2011	<u>21</u>	MOTION for extension of time to file response to <u>19</u> motion to intervene by Assistant Secretary of Labor, Occupational Safety and Health Administration, Secretary of Labor, United States Department of Labor. (Hopkins, Ralph) Motions referred to Magistrate Judge David A. Baker. *Modified text on 9/30/2011 (MAA). (Entered: 09/29/2011)
10/04/2011	<u>22</u>	CERTIFICATE of interested persons and corporate disclosure statement re <u>14</u> Interested persons order by SeaWorld Parks &Entertainment, LLC. (Herbert, Gregory) (Entered: 10/04/2011)
10/11/2011	<u>23</u>	AMENDED COMPLAINT against All Defendants filed by All Plaintiffs.(Coe, George) (Entered: 10/11/2011)
10/11/2011	<u>24</u>	RESPONSE to motion re <u>20</u> MOTION to dismiss Complaint <i>for declaratory and permanent injunctive relief</i> filed by Scott Brancheau, Deborah Frogameni, Charles Loverde, Marion Loverde. (Coe, George) (Entered: 10/11/2011)
10/17/2011	25	ENDORSED ORDER denying as moot <u>20</u> Motion to dismiss due to filing of <u>23</u> Amended Complaint. Signed by Judge Gregory A. Presnell on 10/17/2011. (ED) (Entered: 10/17/2011)
10/18/2011	<u>26</u>	ORDER denying <u>21</u> Motion for extension of time to file response/reply. Signed by Judge Gregory A. Presnell on 10/18/2011. (ED) (Entered: 10/18/2011)
10/21/2011	<u>27</u>	MOTION for summary judgment and Motion to Dismiss <i>Plaintiffs' Amended Complaint</i> by Assistant Secretary of Labor, Occupational Safety and Health Administration, Secretary of Labor, United States Department of Labor. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> *DELETED: Exhibit B Part 1, # <u>3</u> *DELETED: Exhibit B Part 2, # <u>4</u> Exhibit C, # <u>5</u> Exhibit D)(Hopkins, Ralph) . *Exhibit B deleted (contains personal information); government to refile redacted version – Modified text, deleted PDFs, and Added MOTION to dismiss on 10/24/2011 (MAA). (Entered: 10/21/2011)
10/24/2011	<u>28</u>	MOTION for Stephen Leahu to withdraw as attorney by SeaWorld Parks &Entertainment, LLC. (Leahu, Stephen) *Modified text/event type on 10/24/2011 (MAA). (Entered: 10/24/2011)
10/24/2011	<u>29</u>	MILBURN ORDER re <u>27</u> MOTION for summary judgment filed by Secretary of Labor, Assistant Secretary of Labor, Occupational Safety and Health Administration, United States Department of Labor. The Plaintiffs will be allowed until November 28, 2011, to file responsive memoranda. In addition to electronically filing exhibits in support of their papers, the parties are directed to provide chambers with a courtesy paper copy of any such exhibits. Signed by Judge Gregory A. Presnell on 10/24/2011. Copies mailed.(LAM) (Entered: 10/24/2011)
10/25/2011	30	ENDORSED ORDER granting <u>28</u> Motion to withdraw as attorney. Signed by Judge Gregory A. Presnell on 10/25/2011. (ED) (Entered: 10/25/2011)
10/25/2011	<u>31</u>	ORDER granting <u>19</u> Motion to intervene. Signed by Judge Gregory A. Presnell on 10/25/2011. (ED) (Entered: 10/25/2011)
10/25/2011	<u>32</u>	NOTICE by Assistant Secretary of Labor, Occupational Safety and Health Administration, Secretary of Labor, United States Department of Labor <i>of Filing Redacted Exhibit B in Support of Dkt. 27</i> (Attachments: # <u>1</u> Exhibit B Part 1, # <u>2</u> Exhibit B Part 2, # <u>3</u> Exhibit B Part 3)(Hopkins, Ralph) (Entered: 10/25/2011)
11/03/2011	<u>33</u>	NOTICE of pendency of related cases re per Local Rule 1.04(d) by SeaWorld Parks &Entertainment, LLC. Related case(s): yes (Herbert, Gregory) (Entered: 11/03/2011)

11/04/2011	<u>34</u>	INTERVENOR'S COMPLAINT filed by SeaWorld Parks &Entertainment, LLC.(Herbert, Gregory) (Entered: 11/04/2011)
11/07/2011	<u>35</u>	CASE MANAGEMENT REPORT. (Coe, George) (Entered: 11/07/2011)
11/15/2011	<u>36</u>	MOTION to dismiss Intervenor's Complaint by Assistant Secretary of Labor, Occupational Safety and Health Administration, Secretary of Labor, United States Department of Labor. (Hopkins, Ralph) (Entered: 11/15/2011)
11/16/2011	<u>37</u>	CASE MANAGEMENT AND SCHEDULING ORDER. Signed by Judge Gregory A. Presnell on 11/16/2011. (TKW) (Entered: 11/16/2011)
11/16/2011		CASE REFERRED to mediation. (MAA) (Entered: 11/17/2011)
11/16/2011		Set/reset scheduling order deadlines: Amended Pleadings due by 11/30/2011, Joinder of Parties due by 11/30/2011, Discovery due by 2/27/2012, Dispositive motions due by 3/7/2012, Pretrial statement due by 4/13/2012, All other motions due by 4/27/2012, Final Pretrial Conference set for 5/11/2012 at 09:00 AM in Orlando Courtroom 5 A before Judge Gregory A. Presnell, Bench Trial set for 6/4/2012 at 09:00 AM in Orlando Courtroom 5 A before Judge Gregory A. Presnell. Conduct mediation hearing by 2/9/2012. Lead counsel to coordinate dates. Defendant disclosure of expert report due by 12/23/2011, Plaintiff disclosure of expert report due by 11/23/2011. (MAA) (Entered: 11/17/2011)
11/28/2011	<u>38</u>	RESPONSE in opposition re <u>27</u> MOTION for summary judgment <i>and Motion to Dismiss Plaintiffs' Amended Complaint</i> filed by Scott Brancheau, Deborah Frogameni, Charles Loverde, Marion Loverde. (Coe, George) (Entered: 11/28/2011)
11/28/2011	<u>39</u>	DECLARATION of George R. Coe re <u>38</u> Response in opposition to motion by Scott Brancheau, Deborah Frogameni, Charles Loverde, Marion Loverde. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8, # <u>9</u> Exhibit 9, # <u>10</u> Exhibit 10, # <u>11</u> Exhibit 11, # <u>12</u> Exhibit 12, # <u>13</u> Exhibit 13, # <u>14</u> Exhibit 14)(Coe, George) (Entered: 11/28/2011)
12/02/2011	<u>40</u>	AMENDED COMPLAINT by INTERVENOR against All Defendants filed by SeaWorld Parks &Entertainment, LLC.(Herbert, Gregory) (Entered: 12/02/2011)
12/05/2011	<u>41</u>	ENDORSED ORDER denying as moot <u>36</u> Motion to dismiss due to filing of <u>40</u> Amended Complaint. Signed by Judge Gregory A. Presnell on 12/5/2011. (ED) (Entered: 12/05/2011)
12/12/2011	<u>42</u>	REPLY re <u>38</u> Response in opposition to motion filed by Assistant Secretary of Labor, Occupational Safety and Health Administration, Secretary of Labor. (Attachments: # <u>1</u> Exhibit 1)(Hopkins, Ralph) *Modified text on 12/13/2011 (MAA). (Entered: 12/12/2011)
12/21/2011	<u>43</u>	MOTION for protective order <i>and to File Exhibits Under Seal</i> by All Plaintiffs. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(Coe, George) Motions referred to Magistrate Judge David A. Baker. (E-mailed/notified chambers of the filing of this motion on 12/22/11)(IGC). (Entered: 12/21/2011)
01/10/2012	<u>44</u>	MOTION for summary judgment <i>and Motion to Dismiss Intervenor's Amended Complaint</i> by Assistant Secretary of Labor, Occupational Safety and Health Administration, Secretary of Labor, United States Department of Labor. (Hopkins, Ralph) (Entered: 01/10/2012)
01/11/2012	<u>45</u>	ORDER denying <u>43</u> Motion for protective order and file exhibits under seal. Signed by Magistrate Judge David A. Baker on 1/11/2012. (LAK) (Entered: 01/11/2012)
01/11/2012	<u>46</u>	NOTICE by Scott Brancheau, Deborah Frogameni, Charles Loverde, Marion Loverde <i>of Mediation (set for 2/9/12)</i> . (Coe, George) *Modified text on 1/12/2012 (MAA). (Entered: 01/11/2012)
01/11/2012	<u>47</u>	MILBURN ORDER re <u>44</u> MOTION for summary judgment <i>and Motion to Dismiss Intervenor's Amended Complaint</i> filed by Secretary of Labor, Assistant Secretary of Labor, Occupational Safety and Health Administration, United States

		Department of Labor. Plaintiffs will be allowed until February 10, 2012, to file responsive memoranda. Defendants may file a reply brief, not exceeding ten (10) pages, within 14 days after the response is served. In addition to electronically filing exhibits in support of their papers, the parties are directed to provide chambers with a courtesy paper copy of any such exhibits. Signed by Judge Gregory A. Presnell on 1/11/2012. Copies mailed.(LAM) (Entered: 01/11/2012)
01/11/2012		Set/reset deadlines as to <u>44</u> MOTION for summary judgment <i>and Motion to Dismiss Intervenor's Amended Complaint</i> : Responses due by 2/10/2012. (MAA) (Entered: 01/12/2012)
01/18/2012	<u>48</u>	ORDER granting in part and denying in part <u>27</u> Motion for summary judgment; granting in part and denying in part <u>27</u> Motion to dismiss. Signed by Judge Gregory A. Presnell on 1/18/2012. (ED) (Entered: 01/18/2012)
02/07/2012	<u>49</u>	NOTICE OF INTERLOCUTORY APPEAL as to <u>48</u> Order on motion for summary judgment Order on motion to dismiss by Scott Brancheau, Deborah Frogameni, Charles Loverde, Marion Loverde. (Filing fee not paid) (Coe, George) *Modified text on 2/8/2012 (MAA). (Entered: 02/07/2012)
02/07/2012	<u>50</u>	APPEAL FILING FEES paid by Scott Brancheau, Deborah Frogameni, Charles Loverde, and Marion Loverde (Filing fee \$455 receipt number ORL014397) (SR) (Entered: 02/08/2012)
02/08/2012		TRANSMITTAL of initial appeal package to USCA consisting of certified copies of notice of appeal, docket sheet, order/judgment being appealed, and motion, if applicable to USCA re <u>49</u> Notice of appeal. (MAA) (Entered: 02/08/2012)
02/10/2012	<u>51</u>	Unopposed MOTION for extension of time to file response/reply as to <u>44</u> MOTION for summary judgment <i>and Motion to Dismiss Intervenor's Amended Complaint</i> by SeaWorld Parks & Entertainment, LLC. (Herbert, Gregory) Motions referred to Magistrate Judge David A. Baker. (Entered: 02/10/2012)
02/11/2012	<u>52</u>	ENDORSED ORDER granting <u>51</u> Motion for extension of time to file response/reply. The time for the responsive memorandum is likewise extended. Signed by Magistrate Judge David A. Baker on 2/11/2012. (Baker, David) (Entered: 02/11/2012)
02/15/2012	<u>53</u>	RESPONSE in opposition re <u>44</u> MOTION for summary judgment <i>and Motion to Dismiss Intervenor's Amended Complaint</i> filed by SeaWorld Parks & Entertainment, LLC. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E)(Herbert, Gregory) (Entered: 02/15/2012)
02/22/2012	<u>54</u>	MEDIATION REPORT: Hearing held on 2/9/12; Hearing outcome: Impasse(JET) (Entered: 02/22/2012)
02/29/2012	<u>55</u>	REPLY to re <u>53</u> Response in opposition to <u>44</u> Motion for summary judgment filed by Assistant Secretary of Labor, Occupational Safety and Health Administration, Secretary of Labor, United States Department of Labor. (Hopkins, Ralph) Modified on 3/1/2012 (IGC). (Entered: 02/29/2012)
03/07/2012	<u>56</u>	TRANSCRIPT information form filed by Scott Brancheau, Deborah Frogameni, Charles Loverde, Marion Loverde re <u>49</u> Notice of appeal. USCA number: 12-10770-DD. (Coe, George) (Entered: 03/07/2012)
03/29/2012	<u>57</u>	ORDER granting in part and denying in part <u>44</u> Motion for summary judgment and to dismiss. Signed by Judge Gregory A. Presnell on 3/29/2012. (ED) (Entered: 03/29/2012)
03/29/2012	<u>58</u>	ORDER that the trial of this case, pending on the June 2012 docket is hereby CANCELED. Signed by Judge Gregory A. Presnell on 3/29/2012. (TKW) (Entered: 03/29/2012)
03/30/2012	<u>59</u>	NOTICE canceling Final Pretrial Conference hearing scheduled for 5/11/2012. (LAM) (Entered: 03/30/2012)
04/12/2012	<u>60</u>	NOTICE OF INTERLOCUTORY APPEAL as to <u>57</u> Order on motion for summary judgment by SeaWorld Parks & Entertainment, LLC. (Filing fee not paid) (Herbert, Gregory) *Modified text on 4/13/2012 (MAA). (Entered: 04/12/2012)

04/12/2012		USCA appeal fees received \$ 455 receipt number Orl 16100 re <u>60</u> Notice of appeal filed by SeaWorld Parks &Entertainment, LLC. (CH) (Entered: 04/13/2012)
04/13/2012		TRANSMITTAL of initial appeal package to USCA consisting of certified copies of notice of appeal, docket sheet, order/judgment being appealed, and motion, if applicable to USCA re <u>60</u> Notice of appeal. (MAA) (Entered: 04/13/2012)
04/16/2012		TRANSMITTAL to USCA forwarding Filing Fee Paid re <u>60</u> Notice of appeal USCA number: TBA. (CH) (Entered: 04/16/2012)
04/25/2012	<u>61</u>	TRANSCRIPT information form filed by SeaWorld Parks &Entertainment, LLC re <u>60</u> Notice of appeal. (Herbert, Gregory) (Entered: 04/25/2012)
03/27/2013	<u>62</u>	MANDATE of USCA as to <u>49</u> Notice of appeal filed by Deborah Frogameni, Marion Loverde, Charles Loverde, Scott Brancheau, <u>60</u> Notice of appeal filed by SeaWorld Parks &Entertainment, LLC. Issued as Mandate: 3/27/13 USCA number: 12-10770-DD and 12-12003-DD. DISMISSAL LETTER. (JET) (Entered: 03/28/2013)
04/03/2013	63	ENDORSED ORDER In light of the dismissal of the interlocutory appeals, the parties are ORDERED to file, on or before April 18, 2013, a status report as to whether any issues remain to be resolved or whether dismissal is warranted. (ED) (Entered: 04/03/2013)
04/18/2013	<u>64</u>	STATUS report by SeaWorld Parks &Entertainment, LLC as to Secretary of Labor, Assistant Secretary of Labor, Occupational Safety and Health Administration, United States Department of Labor. (Herbert, Gregory) (Entered: 04/18/2013)
04/18/2013	<u>65</u>	STATUS report by Scott Brancheau, Deborah Frogameni, Charles Loverde, Marion Loverde as to Secretary of Labor, Assistant Secretary of Labor, Occupational Safety and Health Administration, United States Department of Labor. (Coe, George) (Entered: 04/18/2013)
04/19/2013	<u>66</u>	STATUS report (<i>Defendants' Status Report</i>) by Secretary of Labor, Assistant Secretary of Labor, Occupational Safety and Health Administration, United States Department of Labor as to Secretary of Labor, Assistant Secretary of Labor, Occupational Safety and Health Administration, United States Department of Labor. (Hopkins, Ralph) (Entered: 04/19/2013)
04/26/2013	<u>67</u>	ORDER directing Clerk to close file. Signed by Judge Gregory A. Presnell on 4/26/2013. (ED) (Entered: 04/26/2013)